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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/660,373	09/12/2000	Reto Hermann	CH919990045-US1	6807

7590

12/31/2003

Anne V Dougherty  
3173 Cedar Road  
Yorktown Heights, NY 10598

EXAMINER
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NGUYEN, CAO H

ART UNIT	PAPER NUMBER
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2173

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DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/660,373

Applicant(s)

Hermann et al.

Examiner

Cao (Kevin) Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on RCE filed on 10/15/03.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 and 27-37 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 and 27-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## DETAILED ACTION

### *Request for Continued Examination (RCE)*

1. The request filed on 10/09/03 for a Request for Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 08/939,185 is acceptable and a RCE has been established. An action on the RCE follows:

### *Claim Rejections -- 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1-25 and 27-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Ballantyne et al. (US Patent No. 5,867,821).

Regarding claim 1, Ballantyne discloses An electronic device for receiving broadcast media comprising digital signal information comprising a central processing unit (CPU) for processing digital signal information (see col. 4, lines 1-47 and figure 1); a storage medium for storing electronic data for selective on-demand viewing by authorized users (see col. 6, lines 20-

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57); a display; a user interface; and a digital audio broadcast receiver which receives a digital signal transmitted by a digital audio transmitter and decodes the received digital signal for use by the CPU to update electronic data stored at said storage medium with said digital signal information (see col. 5, lines 1-67).

Regarding claim 2, Ballantyne discloses wherein the device comprises an electronic book (see col. 3, lines 65-67).

Regarding claim 3, Ballantyne discloses wherein the device comprises a portable database of medical records stored at said storage medium and wherein the digital broadcast transmitted by the digital audio transmitter updates said medical records of a patient (see col. 9, lines 1-15).

Regarding claim 4, Ballantyne discloses further comprising a display processing means for selectively displaying updated records (see col. 12, lines 9-47).

Regarding claim 5, Ballantyne discloses including a smart card reader and processing software, which permits a means of payment to the broadcaster of said digital signal from said digital audio transmitter (see col. 11, lines 28-67).

Regarding claims 6 and 7, Ballantyne discloses wherein the digital audio broadcast receiver is a radio receiver which extracts and delivers a digital data stream from a broadcast channel (see col. 13, lines 42-67).

Regarding claim 8, Ballantyne discloses wherein the device further comprises a smart card reader and associated smart card data processing software for handling a smart card (see col. 9, lines 1-15).

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Regarding claim 9, Ballantyne discloses wherein the smart card has a cryptographic decryption key stored thereon for providing metered access to the broadcast media (see col. 9, lines 17-67).

Regarding claims 10 and 11, Ballantyne discloses further comprising a counter and wherein the cryptographic decryption key on the smart card is associated with a count and wherein the counter decrements the count each time at least part of the digital signal is decrypted (see col. 10, lines 1-67).

Regarding claim 12, Ballantyne discloses a system for handling broadcast media comprising: a transmitter comprising a broadcast server for transmitting a digital audio broadcast; and an electronic device comprising a central processing unit (CPU) for processing digital signal information, a storage medium for storing electronic data for selective on-demand viewing by authorized users; a display; a user interface; and a digital audio broadcast receiver which receives a digital signal transmitted by a digital audio transmitter and decodes the received digital signal for use by the CPU to update electronic data stored at said storage medium with said digital signal information (see figures 6-11A).

Regarding claim 13, Ballantyne discloses wherein the digital audio transmitter broadcasts dynamically changing channel configurations in which channel bandwidth is dynamically adapted to the broadcast media being transmitted (see col. 6, lines 32-67).

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Regarding claim 14, Ballantyne discloses wherein the channel configuration is dynamically changed by identifying broadcast media which is not likely to require all available bandwidth, calculating excess available bandwidth, and allocating the excess in a manner which provides sufficient bandwidth for transient subchannels (see col. 16, lines 22-67).

Regarding claim 15, Ballantyne discloses wherein the digital audio broadcast includes content identifiers associated with the type of media broadcast; wherein the device includes a screening device which selectively permits the downloading of broadcasts according to said content identifiers (see figures 11A-11D).

As claims 16-19 are analyzed as previously discussed with respect to claims 12-15 above.

Regarding claims 20-22, Ballantyne discloses wherein the smart card reader and associated smart card data processing software enable payment to the broadcaster whereby the broadcaster broadcasts, an encrypted signal and charges a set fee for a smart card having a decryption key encoded thereon and for which the smart card reader and associated smart card data processing software are capable of decrypting the signal only during a certain period of time (see col. 8, lines 1-64 and figures 6-11D).

Regarding claim 23, Ballantyne discloses A method of providing broadcast media for updating stored electronic data in a storage location at a portable electronic device, the method comprising the steps of: broadcasting a digital audio signal over a broadcast range; receiving the

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signal at a digital audio receiver; decoding the digital audio signal to obtain update data; and updating the contents of the storage location at the portable electronic device using the update data (see col. 14, line 5-67).

As claims 24-25 and 27-37 are analyzed as previously discussed with respect to claims 12-23 above.

**Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (PTO-892).

**Response**

5. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires to fax a response, (703) 308-9051 may be used for formal communications or (703) 305-9724 for informal or draft communications.

Please label "PROPOSED" or "DRAFT" for informal facsimile communications. For after final responses, please label "AFTER FINAL" or "EXPEDITED PROCEDURE" on the document.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. Sixth Floor (Receptionist).

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*Inquires*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cao (Kevin) Nguyen whose telephone number is (703) 305-3972. The examiner can normally be reached on Monday-Friday from 8:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca, can be reached on (703) 308-3116. The fax number for this group is (703) 308-6606.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.

  
CAO (KEVIN) NGUYEN  
PRIMARY EXAMINER

December 23, 2003

